

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor : **Owen H. Brown and David N. Joseph**
Title : **Selective Escrow Using Electronic Funds Transfer**
Patent No. : **7,801,813** **Serial No.** : **10/775,751**
Issued : **Sep. 21, 2010** **Filed** : **Feb. 9, 2004**
Confirmation No. : **8687**
Group Art Unit : **3691**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

February 14, 2011

Renewed Request for Certificate of Correction Due to Office Error
Pursuant to 37 CFR 1.322

To the Commissioner:

On November 15, 2010, the applicant submitted a Request for Certificate of Correction Due to Office Error Pursuant to 37 CFR 1.322. In a decision dated December 4, 2010, the Office denied the applicant's request. Applicant hereby renews its request for a Certificate of Correction in this application.

As discussed in the Applicant's request filed on November 15, 2010, claim 1 should be corrected as follows:

1. A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from credit or debit card transactions of a merchant associated with a closeout period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more non-credit or non-debit card transactions of the merchant during the closeout period;

determining a second sales amount in the computer system EFP associated with one or more credit or ~~[[non-debit]]~~debit card transactions of the merchant during the closeout period;

determining an escrow amount in the computer system EFP based on the first sales amount, wherein the escrow amount is determined as one of:

- (1) a predetermined percentage of one or more of the first and second sales amounts, and
- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and
- (2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods;

determining in the computer system EFP whether the second sales amount exceeds the escrow amount;

crediting an escrow account with the escrow amount in the computer system EFP when the second sales amount exceeds the escrow amount;

crediting a merchant account with an amount equal to the difference between the second sales amount and the escrow amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account,

wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

The addition of "non-debit" to claim 1 in column 9 at line 40 of the issued patent was in error. As stated in the applicant's original request, while the term "non-debit" appears in this position in the Examiner's Amendment dated August 4, 2010 (a copy of which is attached hereto as Exhibit A), the term "non-" was not underlined to indicate an amendment to add this language to the claim.

It is noted that this term was added by the Examiner makes full use of the USPTO's accepted amendment practice to indicate all other amendments to the claims. For example the amendment in paragraph 1 of claim 2 to add the term "non-" (shown in column 9 at line 36 of the issued patent), shows the term "non-" underlined in the Examiner's Amendment, as text to be added to the claim. By not underlining the term "non-" in the Examiner's Amendment at the second paragraph of claim 1, the Examiner clearly did not intend for this amendment to be made.

In support of the applicant's request and the interpretation of the addition of "non-" to the second paragraph of claim 1 as a typographical error, the applicant is enclosing herewith (as Exhibit B) a copy of an e-mail sent by the applicant to the Examiner on May 21, 2010 showing the amendments that were to be made by the Examiner's Amendment. These amendments were discussed in detail between the applicant's attorney, Samson Helfgott, and the Examiner in a telephone interview on May 21, 2010. The Examiner's Amendment (at page 2, paragraph 2 of item 2) makes specific reference to this interview for authorization of the Examiner's Amendment. As can be seen in the e-mail sent by the applicant's attorney to the Examiner, no amendment was to be made to the second paragraph of claim 1.

Furthermore, the Examiner's Interview Summary for the telephonic interview between the applicant's attorney and the Examiner on May 21, 2010 clearly states that the agreed upon amendments were "to incorporate subject matter of claims 8, 9 into claims 1, 5, 15, 16." The amendment of the second paragraph of Claim 1 to change the term "debit card" to "non-debit card" is not subject matter of either of the original claims 8 or 9.

It is noted that while the amendment to the first paragraph of Claim 1 changed "non credit/debit" to "non-credit or non-debit" the reference to a "non credit/debit card" was at this point in the original claim 1. However, no time during the amendment history of claim 1, did paragraph 2 make any reference to a "non credit/debit card" or a "non-credit or non-debit card." Prior to the apparent typographical error in the Examiner's Amendment, paragraph 2 of Claim 1

always referred only to a "credit or debit card", which was originally specified as a "credit/debit card."

In view of the foregoing, it is respectfully requested that the applicant's original request for a certificate of correction dated November 15, 2010 be granted.

As the error was due to an Office error, it is believed that no fee is due with this request for a Certificate of Correction. However, if any fee is due with this request, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 50-1290.

Please direct any inquiries regarding this request to the applicant's undersigned attorney who may be reached directly by telephone at (212)940-8683.

Respectfully submitted,

/Linda S. Chan/

Linda S. Chan

Reg. No. 42,400

Attorney Docket No.: **BRWN 20.199A (021180-00055)**

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EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,751	02/09/2004	Owen H. Brown	BRWN 20 199A(021180-00055)	8687
26304	7590	08/04/2010	EXAMINER	
EBERSMAN, BRUCE I				
KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			ART UNIT	PAPER NUMBER
			3691	
DATE MAILED: 08/04/2010				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1088 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1088 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/775,751	BROWN ET AL.	
	Examiner	Art Unit	
	BRUCE I. EBERSMAN	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview of 5/20/10.
2. ☒ The allowed claim(s) is/are 1-5,13,15 and 16.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>5/21/10</u> . 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input checked="" type="checkbox"/> Other <u>STIC search</u> . |
|---|---|

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

Interview Summary	Application No. 10/775,751	Applicant(s) BROWN ET AL.	
	Examiner BRUCE I. EBERSMAN	Art Unit 3691	

All participants (applicant, applicant's representative, PTO personnel):

(1) BRUCE I. EBERSMAN. (3) Samson Helfgott (applicant attorney).

(2) _____. (4) _____.

Date of Interview: 21 May 2010.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.
If Yes, brief description: _____.

Claim(s) discussed: 1-7,13,15 and 16.

Identification of prior art discussed: na.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: applicant attorney agreed to amend claims in view of 112nd and to incorporate subject matter of claims 8,9 into claims 1,5,15,16.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Allowable Subject Matter

1. Claims 1-5,13,15,and 16 are allowed.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Samson Helfgott 5/21/10.

EXAMINER'S AMENDMENT

Please amend the claims as follows;

Claim 1. (currently amended): A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from credit or debit card transactions of a merchant associated with a close[[-]]out period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more non-credit or non-debit card transactions of the merchant during the closeout period;

determining a second sales amount in the computer system EFP associated with one or more credit or non-debit card transactions of the merchant during the closeout period;

determining [[a first]] an escrow amount in the computer system EFP based on the first sales amount, wherein the [[first]] escrow amount is determined as one of:

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- (1) a predetermined percentage of one or more of the first and second sales amounts, and
- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and
- (2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods;

determining in the computer system EFP whether the second sales amount exceeds the [[first]] escrow amount;

crediting [[a second]] an escrow account with the [[first]] escrow amount in the computer system EFP when the second sales amount exceeds the [[first]] escrow amount; [[and]]

crediting a merchant account with an amount equal to the difference between the second sales amount and the [[first]] escrow amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account,

wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

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Claim 2. (currently amended): The method of claim 1, wherein the one or more non-credit or non-debit card transactions are cash transactions.

Claim 3. (currently amended): The method of claim 1, wherein one or more non-credit or non-debit card transactions are each facilitated using a payment instrument selected from the group consisting of personal checks, money orders, bank checks, travelers checks, gift checks, gift certificates, and cash.

Claim 4. (previously presented): The method of claim 1, comprising the additional steps of:

determining a payable amount to be paid from the first escrow account; and
debiting the payable amount from the first escrow account.

Claim 5. (currently amended): A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from credit or debit card transactions of a merchant associated with a close[[-]]out period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more taxable non-credit or non-debit card transactions of the merchant during the closeout period;

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determining a second sales amount in the computer system EFP associated with one or more taxable credit or debit card transactions of the merchant during the closeout period;

determining a third sales amount associated with one or more non taxable credit or debit card transactions of the merchant during the closeout period;

determining ~~[[a first]]~~ an escrow amount in the computer system EFP based on the sum of the first and second sales amounts, wherein the ~~[[first]]~~ escrow amount is determined as one of:

- (1) a predetermined percentage of one or more of the first and second sales amounts, and
- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and
- (2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods;

determining whether the sum of the second and ~~[[a]]~~ third sales amounts exceeds the ~~[[first]]~~ escrow amount;

crediting ~~[[a second]]~~ an escrow account with the ~~[[first]]~~ escrow amount when the sum of the second and third sales amounts exceeds the ~~[[first]]~~ escrow amount; ~~[[and]]~~

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crediting a merchant account with an amount equal to the difference between the sum of the second and third sales amounts and the [[first]] escrow amount; determining a payable amount to be paid from the escrow account; and debiting the payable amount from the escrow account, wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

Claims 6-12. (canceled).

Claim 13. (previously presented): The method of claim 5, wherein the predetermined percentage is increased over the merchant tax rate in order to facilitate payment of back taxes.

Claim 14. (canceled)

Claim 15. (currently amended): A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from sales transactions of a merchant associated with a close~~[-]~~out period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more sales transactions of the merchant during the closeout period;

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determining a second sales amount in the computer system EFP associated with one or more credit or debit card transactions of the merchant during the closeout period;

determining [[a first]] an escrow amount in the computer system EFP based on the first sales amount, wherein the [[first]] escrow amount is determined as one of:

- (1) a predetermined percentage of one or more of the first and second sales amounts, and
- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and
- (2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods;

determining whether the second sales amount in the computer system EFP exceeds the [[first]] escrow amount;

crediting [[a second]] an escrow account with the [[first]] escrow amount when the second sales amount exceeds the [[first]] escrow amount; [[and]]

crediting a merchant account with an amount equal to the difference between the second sales amount and the [[first]] escrow amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account.

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wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

Claim 16. (currently amended): A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from sales transactions of a merchant associated with a close[-]out period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more sales transactions of the merchant during the closeout period;

determining a second sales amount in the computer system EFP associated with one or more credit or debit card transactions of the merchant during the closeout period;

determining a plurality of escrow amounts based on the first sales amount, wherein each of the plurality of escrow amounts are determined as one of:

- (1) a predetermined percentage of one or more of the first and second sales amounts, and
- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and

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(2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods; determining in the computer system EFP whether the second sales amount exceeds the sum of the plurality of escrow amounts; and crediting one of a plurality of escrow accounts with [[each of the]] a corresponding one of the plurality of escrow amounts when the second sales amount exceeds the sum of the plurality of escrow amounts; [[and]] crediting a merchant account with an amount equal to the difference between the second sales amount and the sum of the plurality of escrow amounts; determining a payable amount to be paid from one of the plurality of escrow accounts; and debiting the payable amount from one of the plurality of escrow accounts, wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

Reasons for Allowance

3. The following is an examiner's statement of reasons for allowance:

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The most Relevant Patents and Patent Publications are:

US Patent 5644724 to Cretzler

US Patent 6993502 to Gryglewicz

US Patent 6889200 to Agee and

US Patent 6898573 to Piehl

The Most relevant Non-Patent Literature is:

No relevant non-patent literature was identified in an EIC NPL search.

The following non-patent literature is the most relevant NPL.

UK Auction Site Takes on Europe and ebay, John Lamb, Information Week, n809, pp.

68, Oct. 23, 2000

Louisiana Senate Passes Plan to Pay recovery district debt, Christopher McEntee,

Bond Buyer v. 316, n29915, p. 2, June 10, 1996

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Unmask the hidden costs of self-employment, Home Office Computing, V10, n6, p. 62-6, June 1992

Patent 5644724 to Cretzler teaches point of sale collection. Further

Patent 6993502 to Gryglewicz teaches tax collection is such that all sales can be collected according to legal guidelines.

US Patent 6889200 to Agee teaches a cash register with escrow capabilities.

US Patent 6898573 to Piehl is directed to escrowing contractor cash collections.

Tax collection is old and well known. For example US Patent 5644724 to Cretzler and US Patent 6889200 to Agee teaches tax collection utilizing point of sale devices such as a cash register. Purchasing using credit and debit cards is also well known according to Cretzler. Escrowing funds of funds for tax purposes is taught by US Patent 6898573 to Piehl.

Applicant has invented a system where sales tax amounts are collected by debiting a credit card collection account such that credit card receipts are escrowed so as to insure that the taxing authority collects all taxes due from all payment streams including those on cash. Thus, before the merchant can be credited for credit card receipts net of sales tax, the sales are reported and the taxes with-held only against credit card collections. The bank thus assists in the tax collection role and the merchant is relieved of the scenario where funds which were to be applied to tax payments are spent and not available at collection time.

UK Auction Site describes an auction with escrow features. Louisiana Senate Passes Plan to Pay Recovery District Debt teaches the general concepts of credit cards and escrow agents.

Unmask the hidden costs of self-employment discloses the concepts of self employment tax and the necessity of planning ahead by putting aside tax funds which are do so as to avoid unexpected shortfalls when quarterly payments are due.

In summary, neither the patent or non-patent literature disclose;

as disclosed in claim 1;

determining in the computer system EFP whether the second sales amount exceeds the [[first]] escrow amount;

crediting [[a second]] an escrow account with the [[first]] escrow amount in the computer system EFP when the second sales amount exceeds the [[first]] escrow amount; [[and]]

crediting a merchant account with an amount equal to the difference between the second sales amount and the [[first]] escrow amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account,

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wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.”

Claims 5, 15, and 16 are similar but, the comparable claims are:

Claim 5: “determining whether the sum of the second and [[a]] third sales amounts exceeds the [[first]] escrow amount;

crediting [[a second]] an escrow account with the [[first]] escrow amount when the sum of the second and third sales amounts exceeds the [[first]] escrow amount; [[and]]

crediting a merchant account with an amount equal to the difference between the sum of the second and third sales amounts and the [[first]] escrow amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account,

wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant. “

Claim 15: “determining whether the second sales amount in the computer system EFP exceeds the [[first]] escrow amount;

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crediting [[a second]] an escrow account with the [[first]] escrow amount when the second sales amount exceeds the [[first]] escrow amount; [[and]]

crediting a merchant account with an amount equal to the difference between the second sales amount and the [[first]] escrow amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account,

wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant. “

Claim 16: “ determining in the computer system EFP whether the second sales amount exceeds the sum of the plurality of escrow amounts; and

crediting one of a plurality of escrow accounts with [[each of the]] a corresponding one of the plurality of escrow amounts when the second sales amount exceeds the sum of the plurality of escrow amounts; [[and]]

crediting a merchant account with an amount equal to the difference between the second sales amount and the sum of the plurality of escrow amounts;

determining a payable amount to be paid from one of the plurality of escrow accounts; and

debiting the payable amount from one of the plurality of escrow accounts,

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wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.”

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRUCE I. EBERSMAN whose telephone number is (571)270-3442. The examiner can normally be reached on 630am-5pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3691

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

Bruce I Ebersman
Examiner
Art Unit 3691

Notice of References Cited	Application/Control No. 10/775,751		Applicant(s)/Patent Under Reexamination BROWN ET AL.	
	Examiner BRUCE I. EBERSMAN		Art Unit 3691	Page 1 of 1

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*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-7,464,057	12-2008	Cole et al.	705/42
*	B	US-6,684,196	01-2004	Mini et al.	705/26
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	UK Auction Site Takes on Europe and ebay, John Lamb, Information Week, n809, pp. 68, Oct. 23, 2000
	V	Louisiana Senate Passes Plan to Pay recovery district debt, Christopher McEntee, Bond Buyer v. 316, n29915, p. 2, June 10, 1996
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	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

EXHIBIT B

Betancourt, Tabitha

From: Microsoft Outlook
Sent: Friday, May 21, 2010 11:45 AM
To: Betancourt, Tabitha
Subject: Relayed: Serial No.: 10/775,751
Attachments: ATT510033.txt; ATT510034.txt

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

Ebersman, Bruce I. (Bruce.Ebersman@USPTO.GOV)

Subject: Serial No.: 10/775,751

5/21/2010

Betancourt, Tabitha

From: Betancourt, Tabitha
Sent: Friday, May 21, 2010 11:45 AM
To: 'Ebersman, Bruce I.'
Cc: Helfgott, Samson
Subject: Serial No.: 10/775,751
Attachments: Listing of claims April 2010.DOC

Dear Examiner Ebersman:

I see your points with respect to claims 5 and 16. In order to clarify claim 5, I added portions from claim 7 and have canceled claims 6 and 7. I believe claim 5 should now be clear.

Also, I recognize the problem of claim 16 relating to the plurality.

Please call me if you have questions.

Thank you for your cooperation for working with me on this.

Samson Helfgott

TABITHA BETANCOURT on behalf of Samson Helfgott
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5/21/2010

Listing of Claims:

Claim 1. (currently amended): A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from credit or debit card transactions of a merchant associated with a close-out period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more non-credit or non-debit card transactions of the merchant during the closeout period;

determining a second sales amount in the computer system EFP associated with one or more credit or debit card transactions of the merchant during the closeout period;

determining ~~a first~~ an escrow amount in the computer system EFP based on the first sales amount, wherein the ~~first~~-escrow amount is determined as one of:

- (1) a predetermined percentage of one or more of the first and second sales amounts, and
- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and
- (2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods;

determining in the computer system EFP whether the second sales amount exceeds the ~~first~~-escrow amount;

crediting ~~a second~~ an escrow account with the ~~first~~-escrow amount in the computer system EFP when the second sales amount exceeds the ~~first~~-escrow amount; and

crediting a merchant account with an amount equal to the difference between the second sales amount and the ~~first~~-escrow amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account.

wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

Claim 2. (currently amended): The method of claim 1, wherein the one or more non-credit or non-debit card transactions are cash transactions.

Claim 3. (currently amended): The method of claim 1, wherein one or more non-credit or non-debit card transactions are each facilitated using a payment instrument selected from the group consisting of personal checks, money orders, bank checks, travelers checks, gift checks, gift certificates, and cash.

Claim 4. (previously presented): The method of claim 1, comprising the additional steps of:

determining a payable amount to be paid from the first escrow account; and
debiting the payable amount from the first escrow account.

Claim 5. (currently amended): A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from credit or debit card transactions of a merchant associated with a close-out period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more taxable non-credit or non-debit card transactions of the merchant during the closeout period;

determining a second sales amount in the computer system EFP associated with one or more taxable credit or debit card transactions of the merchant during the closeout period;

determining a third sales amount associated with one or more non taxable credit or debit card transactions of the merchant during the closeout period;

determining a ~~first~~ an escrow amount in the computer system EFP based on the sum of the first and second sales amounts, wherein the ~~first~~ escrow amount is determined as one of:

- (1) a predetermined percentage of one or more of the first and second sales amounts, and

- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and
- (2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods;

determining whether the sum of the second and a-third sales amounts exceeds the ~~first~~ escrow amount;

crediting ~~a-second~~ an escrow account with the ~~first-escrow~~ amount when the sum of the second and third sales amounts exceeds the ~~first-escrow~~ amount; ~~and~~

crediting a merchant account with an amount equal to the difference between the sum of the second and third sales amounts and the ~~first-escrow~~ amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account,

wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

Claims 6-12. (canceled).

Claim 13. (previously presented): The method of claim 5, wherein the predetermined percentage is increased over the merchant tax rate in order to facilitate payment of back taxes.

Claim 14. (canceled)

Claim 15. (currently amended): A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from sales transactions of a merchant associated with a close-out period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more sales transactions of the merchant during the closeout period;

determining a second sales amount in the computer system EFP associated with one or more credit or debit card transactions of the merchant during the closeout period;

determining a ~~first~~ an escrow amount in the computer system EFP based on the first sales amount, wherein the ~~first~~ escrow amount is determined as one of:

- (1) a predetermined percentage of one or more of the first and second sales amounts, and
- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and
- (2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods;

determining whether the second sales amount in the computer system EFP exceeds the ~~first~~ escrow amount;

crediting a ~~second~~ an escrow account with the ~~first~~ escrow amount when the second sales amount exceeds the ~~first~~ escrow amount; ~~and~~

crediting a merchant account with an amount equal to the difference between the second sales amount and the ~~first~~ escrow amount;

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account,

wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

Claim 16. (currently amended): A computer-implemented method for impounding escrow funds by an electronic funds processor (EFP) in a computer system from sales transactions of a merchant associated with a close-out period, the method comprising the steps of:

determining a first sales amount in the computer system EFP associated with one or more sales transactions of the merchant during the closeout period;

determining a second sales amount in the computer system EFP associated with one or more credit or debit card transactions of the merchant during the closeout period;

determining a plurality of escrow amounts based on the first sales amount, wherein each of the plurality of escrow amounts are determined as one of:

- (1) a predetermined percentage of one or more of the first and second sales amounts, and
- (2) a sum of a predetermined percentage of at least one of the first and second sales amounts,

and wherein said predetermined percentage comprises:

- (1) a merchant tax rate, and
- (2) an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods;

determining in the computer system EFP whether the second sales amount exceeds the sum of the plurality of escrow amounts; and

crediting one of a plurality of escrow accounts with ~~each of the~~ a corresponding one of the plurality of escrow amounts when the second sales amount exceeds the sum of the plurality of escrow amounts; and

crediting a merchant account with an amount equal to the difference between the second sales amount and the sum of the plurality of escrow amounts;

determining a payable amount to be paid from one of the plurality of escrow accounts;
and

debiting the payable amount from the one of the plurality of escrow accounts,

wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.